

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6211 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

JITENDRA GURMITSINH

Versus

STATE OF GUJARAT

Appearance:

MR YN OZA for Petitioner

Mr Kamal M Mehta, AGP for Respondents

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 04/11/96

ORAL JUDGEMENT

By way of this Special Civil Application, petitioner-Jitendra Gurmitsingh has challenged the order of detention dated 21.6.1996 passed by the Police Commissioner, Ahmedabad under the provisions of Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter referred to as 'the Act'). It is alleged that two criminal cases have been registered against the petitioner being CR No.34/96 with Naranpura Police Station and CR No.239/96 with Navrangpura Police Station.

Both the offences pertain to theft of motor vehicle.

2. Mr Y N Oza, learned Advocate appearing for the petitioner submits that the petitioner is a boy of 23 years old and after graduation, he has been admitted to ITI. It is also contended that simply on the basis of some stray cases registered for offences under the IPC, the petitioner cannot be branded as "dangerous person" within the meaning of section 2(c) of the Act. He relies on a decision of the Apex Court in the case of Mustakmiya Jabbarmiya Shaik vs. M M Mehta, Commissioner of Police & Ors., reported in 1995 (3) SCC 237.

3. The State Government has not filed counter-affidavit. However, Mr Kamal Mehta, learned AGP has opposed the application. He submits that because of the Anti-social activities, the petitioner has rightly been detained.

4. I have heard the learned Advocates for the parties and have gone through the materials on record with their assistance. A reading of the order of detention only indicates that some cases with respect to theft of vehicles have been registered against the petitioner. There is nothing beyond this. In my view, simply some cases under the provisions of IPC have been registered, a person cannot be branded as "dangerous person". The detaining authority is expected to exercise the power under the Act with great restraint and caution. In my view, the detention of the petition is not sustainable and it deserves to be quashed and set aside.

5. In view of the aforesaid, this Special Civil Application is allowed. Order of detention dated 21.6.1996 is quashed and set aside, and direct that the detinue be set at liberty forthwith unless required for any other case.

Rule made absolute accordingly.

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